

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TIARA ENGLE and PORTNER) CIVIL NO. 04 00256 (SOM) (BK)
ORTHOPEDIC REHABILITATION,) (Other Civil Action)
INCORPORATED,)

Plaintiffs,)

vs.)

LIBERTY MUTUAL FIRE INSURANCE)
COMPANY; JOHN DOES 1-10; JANE)
DOES 1-10; DOE CORPORATION)
1-10; DOE PARTNERSHIPS 1-10;)
ROE "NON-PROFIT" CORPORATIONS)
1-10; and ROE GOVERNMENTAL)
ENTITIES 1-10,)

Defendants.)

(1103.04 fmv)

DEPOSITION OF RHONALYN BALMORI
UPON WRITTEN INTERROGATORIES

Taken on behalf of Plaintiffs, at the office of Clifford K.H. Lau, M.D., Bone & Joint Clinic of Hawaii, 1329 Lusitana Street, Suite 501, Honolulu, Hawaii 96813, commencing at 11:40 A.M., on October 27, 2006, pursuant to subpoena.

RECORDS RE:

OBTAINED FROM:

TIARA ENGLE

CLIFFORD K.H. LAU, M.D.
(RECORDS TURNED OVER BY
BONE & JOINT CLINIC OF HAWAII)

BEFORE: Lorraine Freitas, Notary Public, State of Hawaii

1 RHONALYN BALMORI,
2 Called as a witness by and on behalf of the Plaintiffs, being
3 first duly sworn to tell the truth, the whole truth, and
4 nothing but the truth was examined and testified upon written
5 interrogatories as follows:

6 EXAMINATION

7 1. Q. Please state your name.

8 A. Rhonalyne Balmori.

9 2. Q. What is your residence address?

10 A. In care of employer.

11 3. Q. Are you employed?

12 A. Yes.

13 4. Q. What is your employer's name?

14 A. Bone and Joint Clinic of Hawaii.

15 5. Q. What is your employer's address?

16 A. 1329 Lusitana Street, Suite 501, Honolulu, Hawaii
17 96813.

18 6. Q. What is your job or position with your employer?

19 A. Receptionist.

20 7. Q. In that position do you have under your care, custody
21 and control any and all logs and records, video tapes,
22 audio tapes, and/or related reports (hereinafter referred
23 to as "Records"), kept by your employer?

24 A. Reports.

25 8. Q. Among your medical records under your care, custody

1 and control, are there any logs and records relating to:

- 2 1. Any and all reports and/or letters relating to
3 or reflecting records reviews and/or independent
4 medical examinations performed at the request of
5 Liberty Mutual Fire Insurance Company. The names
6 of the persons who were examined and/or whose
7 records were reviewed may be redacted prior to
8 the production of the documents covered by this
9 subpoena. This category is for all responsive
10 documented dated between January 1, 2000 and
11 October 10, 2006.
- 12 2. Any and all records, whether printed, typed, or
13 stored on a computer, indicating and/or
14 reflecting all amounts paid by Liberty Mutual
15 Fire Insurance Company for records reviews
16 and/or independent medical examinations. This
17 category is for all responsive records dated
18 between January 1, 2000 and October 10, 2006.
- 19 3. Any and all correspondence to or from Liberty
20 Mutual Fire Insurance Company relating to
21 records reviews and/or independent medical
22 examinations. This category is for all
23 responsive documents dated between January 1,
24 2000 and October 10, 2006.

25 A. Yes, reports.

1 9. Q. Were you served with a Subpoena requiring your
2 appearance before the notary public for the purposes of
3 answering these questions and requiring you to bring with
4 you:

5 1. Any and all reports and/or letters relating to
6 or reflecting records reviews and/or independent
7 medical examinations performed at the request of
8 Liberty Mutual Fire Insurance Company. The names
9 of the persons who were examined and/or whose
10 records were reviewed may be redacted prior to
11 the production of the documents covered by this
12 subpoena. This category is for all responsive
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14 October 10, 2006.

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17 reflecting all amounts paid by Liberty Mutual
18 Fire Insurance Company for records reviews
19 and/or independent medical examinations. This
20 category is for all responsive records dated
21 between January 1, 2000 and October 10, 2006.

22 3. Any and all correspondence to or from Liberty
23 Mutual Fire Insurance Company relating to
24 records reviews and/or independent medical
25 examinations. This category is for all

1 responsive documents dated between January 1,
2 2000 and October 10, 2006.

3 A. Yes.

4 10. Q. Do you have all of those logs and records with you?

5 A. Yes.

6 11. Q. Are those records complete?

7 A. Yes.

8 12. Q. Has any portion of those records ever been removed
9 from your care, custody and control prior to this time?

10 A. No.

11 13. Q. If so, when and by whom?

12 A. (Not applicable.)

13 14. Q. Has any portion of those records ever been altered
14 prior to this time?

15 A. No.

16 15. Q. If so, when and by whom?

17 A. (Not applicable.)

18 16. Q. What identifies those records as pertaining to the
19 above-mentioned person?

20 A. Patient's name.

21 17. Q. Would you please turn over to the notary public at
22 this time the originals or complete and legible copies of
23 any and all of your employer's records, video or audio
24 tapes pertaining to the above-mentioned person, which you
25 have brought with you pursuant to the requirements of the

1 subpoena with which you were served.

2 A. Yes.

3 18. Q. Please described briefly but completely so that they
4 may bee readily identified the records which you have
5 turned over to the notary public.

6 A. Patient record review.

7 19. Q. Please describe briefly but completely so that they
8 may be readily identified, any of your employer's records
9 pertaining to the above-mentioned person which you have
10 not turned over to the notary public, including both those
11 records which you have brought with you and those records
12 which you have not brought with you.

13 A. None.

14 20. Q. Are you willing to waive the reading and signing of
15 this deposition?

16 A. Yes.

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1 STATE OF HAWAII)
2 CITY AND COUNTY OF HONOLULU) SS.

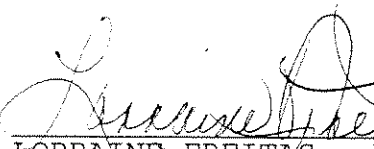
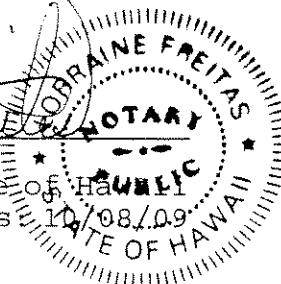
3 I, Lorraine Freitas, Notary Public, State of Hawaii,
4 hereby certify:

5 That on the aforementioned date and time, the witness
6 whose deposition is contained herein appeared before me;
7 that prior to being examined upon written interrogatories the
8 witness was by me duly sworn; and

9 That the deposition was taken by me and the foregoing is
10 a correct transcription of my notes to the best of my
11 ability.

12 I further certify that I am not an attorney for any of
13 the parties hereto nor in any way concerned with the cause.

14 Dated this 27th day of October, 2006, at
15 Honolulu, Hawaii.

16
17 
18 LORRAINE FREITAS
Notary Public, State of Hawaii
My Commission expires: 10/08/09
19 

20 I, Ralph Rosenberg, hereby certify that the foregoing was
21 duly executed and produced under my direction and control.

22
23
24 RALPH ROSENBERG, CSR 179
Notary Public, State of Hawaii
25 My Commission expires: 8/25/10

****NOTE****

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CLIFFORD LAU, M.D.
 1329 LUSITANA ST STE 501
 HONOLULU, HI 96813
 PHONE 522-9633

LIBERTY MUTUAL %AGNES LEE
 POBOX 30608
 HONOLULU, HI 96820

11/11/06

Acct: 014445 Pat: ENGLE, TIARA

ENGLE, TIARA 014445	10/27/06	0.00
11/19/03 CLIFFORD LAU, M.D.	99080- RECORD REVIEW	419.24
12/08/03	UN *CLAIM# LA 658-3558040-05 / DOS 11/18/03 Unassigned payment	-419.24
09/28/06	99080- A *CK 13555375 LIBERTY MUTUAL ADDITIONAL REPORT	209.62
10/24/06	UN *DOA 05/02/03 Unassigned payment	-209.62
	*CK 18460324 LIBERTY MUTUAL	
0.00 0.00 0.00 0.00		0.00

CLIFFORD LAU, M.D.
 1329 LUSITANA ST STE 501
 HONOLULU, HI 96813
 PHONE 522-9633

Tax ID: 99-0271665

THIS IS A WALKOUT STATEMENT.

CLIFFORD K.H. LAU, M.D., F.A.C.S.

Orthopaedic Surgery

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(808) 522-9633

Physicians' Exchange
(808) 524-2575

November 18, 2003

Agnes Lee, Claims Specialist
Liberty Mutual Group
P. O. Box 30608
Honolulu, HI 96820

RE: **ENGLE, TIARA**
D/Injury: **05/02/03**

Dear Ms. Lee:

A medical records review was performed on Ms. Tiara Engle with regards to her motor vehicle accident of 05/02/03.

RECORD REVIEW:

05/02/03 - Kaiser Permanente ER Physician Record. Time seen is 4:30 p.m. Occurred just prior to admission. Passenger in a vehicle with car collision. Location of pain and injuries: Head. Severity of pain is mild. Associated symptoms: Loss of consciousness ?, does not remember impact. Does not recall restraints. Patient pregnant, oriented x 1, C-collar. Abrasion on right forehead. Neck nontender, painless range of motion. Trachea midline. Positive FHT. Back no CVA tenderness. No vertebral tenderness. Extremities atraumatic. Pelvis stable. CT of the head negative. Clinical impression: Contusion of face, concussion. Emergency room brain CAT scan, preliminary report negative study.

05/02/03 - ER Department, medical screening order form, time 1609. 18-year-old female alert and oriented x 3. Arrived via CNC with hard neck collar. Complaints of head pain. Passenger, ? restraints. Positive short-term memory loss. Patient pregnant.

05/05/03 - CT scan of head without contrast, unremarkable CT scan of the head.

05/16/03 - Young, M.D. Pain to back of head off and on. Mostly pain from lying down and then getting up position. Patient was passenger that got hit from behind at a stop light. Also hit car in front. No loss of consciousness. Seen at Kaiser emergency room. Full range of motion of the neck but pain tilting left and rotating left. Refer to Dr. Crowley.

05/30/03 - Kuribayashi, D.C. Diagnosis of concurrent or contributing conditions: Lumbar spine dysfunction, thoracic spine dysfunction, cervical spine dysfunction, bilateral arm radiculitis, left ankle sprain.

06/03/03 - Ahmad/Portner, M.D. 18-year-old female, cashier at a gas station, presents with chief complaint of pain in the back of the neck, upper mid and low back as a result of motor vehicle

Liberty Mutual Group
RE: ENGLE, TIARA

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accident on 05/02/03. Passenger in car, rear-ended at a stop light. Other car was around 45 mph speed. Noted pain in the back of the neck right after the accident. Noticed back pain a few days after. CT scan of head performed at Kaiser, told she had a concussion. No x-rays of neck and spine, patient is pregnant in second trimester. Recommended rest, however, did not improve. Consulted chiropractor after a few weeks as the pain persisted. Initially begun spinal adjustments and treatment. She has received one therapy session. Recommend EMG and nerve conduction study. No paresthesias reported. Seems to radiate down to the upper back, turning the neck side-to-side exacerbates neck pain. Low back pain worse with sitting for 20 minutes. Localized without any paresthesias in bilateral lower extremities. Pain level 8 on an intensity scale of 1-9. Examination of cervical spine: No apparent deformities. Flexion is full, mildly painful. Extension is full and painless. Bilateral rotation also mildly limited and painful. Manual muscle strength 5/5. Deep tendon reflexes symmetric. Sensation intact. Bilateral shoulders full and passive range of motion, resisted abduction, internal and external rotation are painless bilaterally. Thoracolumbar spine limited, painful flexion and extension. Bilateral side bendings are full and painless. Straight leg raising negative. SI joints negative. Deep tendon reflexes intact. Impression: Cervicothoracic and lumbar spine dysfunction, traumatic. Recommend PT, soft tissue massage. Continue chiropractic treatments. Bilateral upper extremity EMG and nerve conduction study to be performed to rule out radiculopathy based on Dr. Kuribayashi and her symptoms. Request report of CT of brain.

07/03/03 - Ahmad/Portner, M.D. Reports feeling okay especially neck, however, back still bothers her. Pain localized without radiation down the extremities. Receiving physical therapy in forms of mobilization, modalities, and manual traction. Did not receive any traction to lower back due to her pregnancy. EMG and nerve conduction studies of bilateral upper extremities reportedly negative. Lumbar spine reveals full and painless flexion, extension and bilateral side bendings are limited and painful. Bilateral rotation full and painless. Thoracic spine dysfunction resolved. Cervical spine dysfunction much improved. Lumbar spine dysfunction improving. Will try abdominal binder for abdominal support to relieve some of her low back symptoms.

08/07/03 - Ahmad/Portner, M.D. Improving with physical therapy and soft tissue massage. Last week illness reported to be stomach flu. Today reports neck and back pain are bothering her. Wants to continue current treatment as they are helping. Patient is pregnant, due on 09/29/03. Told patient if pain still persists after delivery, treatment may be restarted when she has recovered from the delivery.

08/28/03 - Ahmad/Portner, M.D. Neck pain slightly worse when seen at the last time. Not able to attend physical therapy. Had to sell her car. Does not have a ride. Also recovering from stomach flu. Discussed therapies with GYN doctor who does not recommend to stop them for any obstetrical or gynecologic reasons. Neck is worse with prolonged sitting, associated with headaches, lying down and sleep helps. Neck nearly full but mildly painful flexion and extension, bilateral rotations are full and painless. Thoracolumbar spine reveals full and painless bilateral rotation. Cervicothoracic and lumbar spine dysfunctions gradually improving.

10/22/03 - Ahmad/Portner, M.D. Gave birth to her child on 09/20/03, was fine. Says in a certain way she sits exacerbates pain. Pain is localized without any radiation down the lower extremity.

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Has not received physical therapy secondary to pregnancy and birth of child. Neck is better, however, still feels pains on the right side. Not breast-feeding. Did not receive any x-rays due to pregnancy. Has not received exercises or strengthening exercises due to pregnancy. Will get x-rays of cervical, thoracic and lumbar spine to rule out other pathology. Consider MRI. Consider injections. Physical therapy, soft tissue massage, chiropractic treatment.

IMPRESSION:

1. Contusion to face with concussion with possible loss of consciousness.
2. Cervical and lower back strain.
3. Pregnancy.

PROGNOSIS: Fair.

DISCUSSION: From the medical records reviewed, this is an 18-year-old who was the passenger in a motor vehicle accident, she was rear-ended. When initially seen in the emergency room, she had no neck pain, back pain nor extremity pain. Her main complaints were abrasions to her head. Her severity of pain was mild, and there was a questionable loss of consciousness. She was seen two weeks later by Dr. Young and there were some complaints of pain of the neck with rotating to the left. She was in her second trimester of pregnancy at the time of the accident. She sees Dr. Kuribayashi for chiropractic treatment and receives massage therapy and physical therapy. The records from Dr. Portner's office noted improvement on his 07/03/03 visit where the thoracic spine dysfunction has resolved, the cervical spine dysfunction was much improved, and the lumbar spine dysfunction was improving.

On Dr. Portner's note of 06/03/03, he notes that the patient noted pain in the back of the neck right after the accident and the back pain started a few days later. This differs slightly from the emergency room report where there is no pain in the neck area but mild pain in the head. It is possible for neck pain and back pain to occur a couple of days later, usually indicating a lower energy injury with resultant mild or soft tissue injury. This is usually a strain and sprain which usually resolves within a 6-8 week period of time. In Ms. Engle's case, she was in her second trimester of pregnancy and in the third trimester low back pain can occur. This can vary with the weight gain and how she is carrying her child. I note from Dr. Portner's note there is an improvement in her thoracic and neck area but there is an increase in back pain around her third trimester. On the last visit that I had to review on 10/22/03, there is some pain that occurs with certain ways that she sits. This can also be related to post-pregnancy problems as the pelvis has to re-adjust with stabilization of her ligaments. The records indicate a lower energy injury with the initial emergency room report of no specific neck or back tenderness and no specific complaints of neck or back pain, and only mild complaints of head pain. A visit two weeks later notes full range of motion of the neck with some pain when turning to the left side. When followed by Dr. Portner the thoracic spine dysfunction has resolved and the cervical spine dysfunction is much improved with the lower back improving.

Based on these records, I do not believe further passive modalities are necessary. This includes massage therapy as well as adjustments. She is still in her postpartum phase and I would recommend a home exercise program, mainly abdominal strengthening exercises to help

CLIFFORD K.H. LAU, M.D., F.A.C.S.

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September 28, 2006

Agnes Lee, Claims Branch
Liberty Mutual Insurance
P. O. Box 30608
Honolulu, HI 96820

RE: **ENGLE, TIARA**
D/Injury: 05/02/03

Dear Ms. Lee:

Additional medical records on Ms. Tiara Engle were reviewed. I previously had performed a medical records review on Ms. Engle and submitted a report on 11/18/03.

Additional reports from Dr. Portner's group were reviewed. Summary is as follows:
10/29/03 – X-ray report read by Dr. Portner. Thoracic spine and lumbar spine showed minimal levoscoliosis, otherwise negative thoracic and lumbar spine. AP pelvis showed negative pelvis. Cervical spine films showed disk heights intact. Loss of cervical lordosis.

11/13/03 – Cervical spine MRI scan performed at Dr. Yeoh and Dr. Muranaka's office shows disk dessication without bulge or herniation. Normal disk heights are noted. Lumbar spine MRI on 11/13/03 read by Dr. Muranaka notes disk dessication at L5-S1 with a small central subligamentous disk herniation measuring 12 by 3 mm. Mild impingement on the thecal sac. Spinal nerve canals are within normal limits. Mild bilateral facet joint osteoarthritis is noted at L4-5 and L5-S1.

Treatment records indicate massage therapy and chiropractic manipulation of the cervical, thoracic and lumbar spine continued through 04/23/04.

I previously had performed a medical record review on 11/18/03 on Ms. Engle and noted that when she was initially seen in the emergency room there were no complaints of neck pain or back pain. Two weeks later, she sees Dr. Yeung with some complaints of moving the neck to the right or left but no back complaints. A month later she was noted with neck and back problems. The development of back pain and mid back pain a month after an accident is usually not consistent with a rear-end motor vehicle accident. I also note that when treated by Dr. Portner, there was some improvement until approximately her last trimester of pregnancy when there was increased pain in her back area. The diagnostic studies did not show any significant disk herniations or nerve type problems.

Liberty Mutual Insurance
RE: ENGLE, TIARA

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There is no change to my diagnosis or recommendations noted on my 11/18/03 report. I would not recommend any further treatment and especially no further passive modalities. The continued use of passive modalities tends to encourage a dependency on the treating provider and may negatively influence returning to function when provided for long periods.

There is also a question if there were any problems or complications that occurred with the birth or postpartum. Depression postpartum could also lead to chronic pain conditions.

If you have questions regarding this report, please feel free to contact me.

Sincerely,

Clifford K. H. Lau, M.D., F.A.C.S.
Orthopaedic Surgery

CKHL/mf
lau090206-23